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To: <rb9agenda@waterboards.ca.gov>
CC: "Marco Gonzalez" <marco@coastlawgroup.com>, "Sara Honadle" <sara@coastla...>
Date: 4/1/2009 5:04 PM
Subject: Agenda item 13 NPDES Permit Revision and Approval of Flow, Entrainment and Impingement Minimization Plan: Poseidon Resources Corporation, Proposed Carlsbad Desalination Project (Order No. R9-2006-0065, NPDES No. CA0109223).

Dear Mr. Robertus

On or about March 9, 2009, you issued a notice of public hearing for the above referenced item. Therein was contemplated submission of comments on available documents by 5:00 pm today. As you surely are aware, a significant amount of new material has been added since posting of the notice. These include, but may not be limited to the following:

* Replacement Attachment 7

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/nordby.pdf> , Statement of Chris Nordby dated March 18, 2009

* Statement, Qualifications, and Data files from Howard H. Chang Ph.D., P.E.

* Statement

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/Chang_Final.pdf>

* Statement

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_24_09/Chang_Final_Report_032009_hyperlink.pdf> (revised on 3/24 only to correct the URL on page 4)

* Qualifications

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/Changcv.pdf>

* HEC-Data File 1

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/JAN12.OUT>

* HEC -Data File 2

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/FEB23.OUT>

* 2005 Rainfall Data From San Diego County

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/2005%20rainfall.xls>

* Statement of Scott A. Jenkins, Ph.D

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_23_09/jenkins.pdf>

* Flow, Entrainment and Impingement Minimization Plan

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/March%2027,%202009%20Minimization%20Plan>

pdf> (dated March 27, 2009)

* Attachment 1

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%201.pdf>

* Attachment 2

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%202.pdf>

* Attachment 3

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%203.pdf>

* Attachment 4

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%204.pdf>

* Attachment 5

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%205.pdf>

* Attachment 6

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%206.pdf>

* Attachment 7

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%207.pdf>

* Attachment 8

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%208.pdf>

* Attachment 9

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%209.pdf>

* Attachment 10

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/3_27_09%20Min%20Plan%20Att%2010.pdf>

* Flow, Entrainment and Impingement Minimization Plan

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/Redline%20of%20March%206,%202008%20Min%20Plan%20to%20March%2027,%202009%20Min%20Plan.pdf> (March 27, 2009), Redline/Strikeout Version Showing Changes from March 6, 2008 Minimization Plan to March 27, 2009

* Flow, Entrainment and Impingement Minimization Plan

<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/Redline%20of%20March%209,%202009%20Min%20Plan%20to%20March%2027,%202009%20Min%20Plan.pdf> (March 27, 2009), Redline/Strikeout Version Showing Changes from March 9, 2009 Minimization Plan to March 27, 2009

* Regional Board Staff Report dated March 27, 2009
<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_27_09/staff_report_3_27_09.pdf>

* INDEX
<http://www.waterboards.ca.gov/sandiego/press_room/announcements/carlsbad_desalination/updates_3_13_09/index_table_poseidon.shtml> to
Electronically Available Primary Supporting Documents

* For additional related material please see:

* April 9, 2008 Agenda Item No. 7
<http://www.waterboards.ca.gov/sandiego/board_info/agendas/2008/apr_09/apr_09.shtml>

* February 11, 2009 Agenda Item No. 6
<http://www.waterboards.ca.gov/sandiego/board_info/agendas/2009/feb/feb_09.shtml>

* April 8, 2009 Agenda Item No. 13
<http://www.waterboards.ca.gov/sandiego/board_info/agendas/2009/apr/apr_09.shtml>

In addition, the staff report for the matter dated March 27, 2009 indicates significant additional information, namely critical evaluations of materials by Dr. Raimondi, were expected to be received by the Board yesterday. We have not yet seen this documentation, and it is not posted on the Board's website.

Given the volume of documents, as well as the timing of availability to the public, we do not believe sufficient time has been afforded to review and provide meaningful comments within the originally prescribed timeframe. As such, please accept this correspondence as notice that we shall be submitting written comments up to, and possibly at, the Regional Board hearing on April 8th. Given that the matter is in litigation, and the project need not be approved at the April 8th hearing to remain on schedule, there is no credible legal rationale for requiring strict adherence to the artificial deadline of today at 5:00pm.

Thank you, and we look forward to continued participation in this critical matter.

-Marco Gonzalez

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